

The Hon. Ricardo S. Martinez

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAIME HERNANDEZ HERNANDEZ,

Defendant.

NO. CR21-032-RSM

**PRELIMINARY
ORDER OF FORFEITURE**

THIS MATTER comes before the Court on the United States' Motion for Entry of a Preliminary Order of Forfeiture ("Motion") seeking to forfeit, to the United States, Defendant Jaime Hernandez Hernandez's interest in the following property (collectively, "Subject Property"):

- \$19,619 in United States currency, seized on or about January 5, 2021;
- \$1,320.00 in United States currency, seized on or about February 23, 2021, from co-defendant Ortiz's residence;
- \$386.00 in United States currency, seized on or about February 23, 2021, from a vehicle parked at co-defendant Ortiz's residence;
- \$180.00 in United States currency, seized on or about February 23, 2021, from co-defendant Ortiz's vehicle; and

- A black 2018 BMW M3 with VIN WBS8M9C54J5J78090.

The Court, having reviewed the United States' Motion, as well as the other papers and pleadings filed in this matter, hereby FINDS entry of a Preliminary Order of Forfeiture is appropriate because:

- On February 17, 2021, Defendant was charged by Indictment with Conspiracy to Distribute Fentanyl, in violation of 21 U.S.C. §§ 841(a)(1) and 846, as charged in Count One, and Distribution of Fentanyl, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C) and 18 U.S.C. § 2, as charged in Counts Two through Six, and Nine. Dkt. No. 1. The Indictment included forfeiture allegations providing notice of the United States' intent to forfeit any property that constitutes or is traceable to proceeds of the offenses, as well as any property that facilitated the offenses. *Id.* at 6.
- On December 10, 2021, Defendant entered a plea of guilty to Conspiracy to Distribute Fentanyl, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(B) and 846, a lesser-included offense of that charged in Count One. Dkt. No. 72;
- In his Plea Agreement, Defendant agreed to forfeit any property, real or personal, that was used or intended to be used, in any manner or part to commit or to facilitate the commission of the offense and any property constituting or deprived from, any proceeds Defendant obtained, directly or indirectly, the result of the offense, including but not limited to the Subject Property. Dkt. No. 72, ¶ 13; and,
- The Subject Property is forfeitable pursuant to 21 U.S.C. § 853, as property that was used to facilitate the offense, or was proceeds obtained as a result of the offense to which Defendant entered a guilty plea.

NOW, THEREFORE, THE COURT ORDERS:

1 1) Pursuant to 21 U.S.C. § 853, as well as the Plea Agreement entered into by
2 Defendant, Defendant's interest in the Subject Property is fully and finally forfeited, in its
3 entirety, to the United States;

4 2) Pursuant to Fed. R. Crim. P. 32.2(b)(4)(A)-(B), this Preliminary Order will
5 be final as to Defendant at the time he is sentenced, it will be made part of the sentence,
6 and it will be included in the judgment;

7 3) The Department of Justice, Drug Enforcement Administration, and/or its
8 authorized agents or representatives, shall maintain the above-identified property in its
9 custody and control until further order of this Court;

10 4) Pursuant to Fed. R. Crim. P. 32.2(b)(6) and 21 U.S.C. § 853(n), the
11 United States shall publish notice of this Preliminary Order and its intent to dispose of the
12 property as permitted by governing law. The notice shall be posted on an official
13 government website – currently www.forfeiture.gov – for at least thirty (30) days. For
14 any person known to have alleged an interest in the property, the United States shall, to
15 the extent possible, provide direct written notice to that person. The notice shall state that
16 any person, other than Defendant, who has or claims a legal interest in the property must
17 file a petition with the Court within sixty (60) days of the first day of publication of the
18 notice (which is thirty (30) days from the last day of publication), or within thirty (30)
19 days of receipt of direct written notice, whichever is earlier. The notice shall advise all
20 interested persons that the petition:

21 a. shall be for a hearing to adjudicate the validity of the petitioner's alleged
22 interest in the property;

23 b. shall be signed by the petitioner under penalty of perjury; and,

24 c. shall set forth the nature and extent of the petitioner's right, title, or interest
25 in the property, as well as any facts supporting the petitioner's claim and
26 the specific relief sought.

1 5) If no third-party petition is filed within the allowable time period, the
2 United States shall have clear title to the property, and this Preliminary Order shall
3 become the Final Order of Forfeiture as provided by Fed. R. Crim. P. 32.2(c)(2);

4 6) If a third-party petition is filed, upon a showing that discovery is necessary
5 to resolve factual issues it presents, discovery may be conducted in accordance with the
6 Federal Rules of Civil Procedure before any hearing on the petition is held. Following
7 adjudication of any third-party petitions, the Court will enter a Final Order of Forfeiture,
8 pursuant to Fed. R. Crim. P. 32.2(c)(2) and 21 U.S.C. § 853(n), reflecting that
9 adjudication; and,

10 7) The Court will retain jurisdiction for the purpose of enforcing this
11 Preliminary Order, adjudicating any third-party petitions, entering a Final Order of
12 Forfeiture, and amending the Preliminary Order or Final Order as necessary pursuant to
13 Fed. R. Crim. P. 32.2(e).

14
15 IT IS SO ORDERED.

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17 DATED this 11th day of March, 2022.

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20 RICARDO S. MARTINEZ
21 CHIEF UNITED STATES DISTRICT JUDGE

22
23 Presented by:

24 s/Jehiel I. Baer

25 JEHIEL I. BAER

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